IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : January 08, 2007

Mohan Singh

....Petitioner

versus

State of Punjab and others ....Respondents

Coram: Hon'ble Mr. Justice Virender Singh

Present : Mr. M.P.S.Mann, Advocate, for the petitioner

Judgment

Respondent Nos. 2 to 5 have earned acquittal vide impugned judgment of learned Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur dated 19.1.2005.

The conceded position is that the State of Punjab has not preferred any appeal against the order of acquittal. Hence the instant revision petition by the complainant.

I have heard learned counsel for the petitioner and gone through the impugned judgment very minutely.

The case of the prosecution in brief is that Sarwan Singh had married to one Kirpal Kaur and a son namely Mohan Singh complainant had born out of the said wedlock. Kirpal Kaur had died and thereafter Sarwan

Singh solemnized second marriage with Mukhtiar Kaur. Out of this wedlock, Malkiat Singh had born. Sarwan Singh had separated the complainant by giving him some piece of land but it was not got registered in his name. Due to this, the dispute was going on between both the sides. Mohan Singh has two sons, namely, Malwinder Singh and Amandeep Singh. The case of the prosecution further is that on 3.3.2002, Malwinder Singh had gone to Sarwan Singh who was staying with Malkiat Singh and made a request that some share of land should be given as he was dying of hunger and in case he is not given the share he would consume poison. It is then the case of the petitioner that Malwinder Singh returned home and consumed poison in the evening of 3.3.2003. He was taken to the hospital for treatment and ultimately he died. Primarily on these allegations, the case was registered against Sarwan Singh, his son Malkiat Singh, his wife Mukhtiar Kaur and Baljinder Kaur wife of Malkiat Singh.

After appreciating the entire evidence, the trial court acquitted all the four accused.

Mr. Mann has not been able to pin point any infirmity in the impugned judgment either on facts or law which would call for the interference of this Court while exercising its revisional jurisdiction.

Even otherwise, the scope of revision against an order of acquittal has been well discussed by the Hon'ble Apex Court in a judgment rendered in **Bindeshwari Prasad Singh alias R.P.Singh and others vs. State of Bihar (now Jharkhand) and another,** 2002(4) RCR (Criminal) 61, wherein their Lordships of the Apex Court have observed that in the absence of any legal infirmity either in the procedure or in the conduct of the trial, there was no justification for the High Court to interfere in exercise of its revisional jurisdiction. It is further observed that the High Court should not re-appreciate the evidence to reach a finding different than the one arrived at by the trial court. In the absence of manifest illegality resulting in grave miscarriage of justice, exercise of revisional jurisdiction

in such cases is not warranted. It is further observed by their Lordships that in exercise of revisional jurisdiction against an order of acquittal at the instance of a private party, the Court exercises only limited jurisdiction and should not constitute itself into an appellate court which has a much wider jurisdiction to go into questions of facts and law and to convert an order of acquittal into one of conviction. It cannot be lost sight of that when a re-trial is ordered, the dice is heavily loaded against the accused, and that itself must caution the Court exercising revisional jurisdiction.

Another latest judgment of Hon'ble Apex Court rendered in **Satyajit Banerjee v. State of West Bengal** 2005(1) RCR (Criminal) 723 on the point may also be read with advantage.

Taking into consideration the facts of the case in hand and following the ratio of law laid down by the Hon'ble Supreme Court in the aforesaid judgments, I find no substance in the instant revision petition. Consequently, the same is dismissed.

(Virender Singh)
Judge

January 08, 2006
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